

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

CC Docket No.: 01-277

| | | |
|---|---|--------------------------------|
| In re: |) | |
| Application of BellSouth Corporation |) | AFFIDAVIT OF JOHN CHEEK |
| Pursuant to Section 271 of the Telecommunications |) | ON BEHALF OF NUVOX |
| Act of 1996 to Provide In-Region, InterLATA |) | COMMUNICATIONS, INC. |
| Services in Georgia and Louisiana |) | |

John Cheek, being first duly sworn, deposes and says:

Access to Unbundled Local Loops (Checklist Item 4)

1. I am Executive Director of the Network Management Center for NuVox Communications, Inc. ("NuVox"). My business address is 301 North Main Street, Suite 8000, Greenville South Carolina 29601.
2. I served for over 33 years as an employee of BellSouth Telecommunications, Inc. ("BellSouth") and its predecessor companies in a variety of positions throughout BellSouth's network department. Among the positions in which I served at BellSouth were: Central Office Supervisor in the Chamblee, Georgia, area; District Staff Manager for Northeast Atlanta; General Manager Staff for Georgia; and Network Services Staff Manager for the North area (Georgia, North and South Carolina) of Southern Bell. In the latter capacity, I was in charge of the implementation of methods and procedures for the maintenance and operations of the network.
3. The purpose of my affidavit is to describe BellSouth's failure to provide nondiscriminatory access to unbundled local loops (as required by Checklist Item 4 of Section 271 of the Telecommunications Act of 1996). My affidavit explains how BellSouth's conduct hinders NuVox's ability to compete for the provision of telecommunications services in South Carolina.
4. NuVox purchases unbundled local loops from BellSouth for use in combination

with NuVox's own facilities to serve its Georgia customers.

5. BellSouth's response to troubles reported by NuVox on BellSouth loops is inadequate. Trouble tickets are closed prematurely well before the trouble is resolved. The customer inevitably again experiences problems with service, requiring NuVox to submit a new trouble ticket to BellSouth. In the meantime, NuVox's customer remains without telephone service. This problem is illustrated with the information I have attached on repeat troubles NuVox customers have experienced from May 2001 through August 2001, attached as Exhibits JC-1 through JC-4 respectively. As illustrated in these exhibits, this pattern often is repeated several times before the customer's service is fully and reliably restored. In summary, our customer remains out of service longer than would be necessary if BellSouth had completely resolved the problem in the first place.

6. When a customer reports trouble to NuVox, our Network Management Center immediately opens a NuVox trouble ticket on the matter.

7. Next, we run a number of diagnostic tests to determine whether the cause of the trouble can be traced to NuVox equipment or BellSouth equipment.

8. Once NuVox determines that the source of the trouble lies on BellSouth's network, we contact BellSouth.

9. The BellSouth Access Carrier Advocacy Center ("ACAC") or Customer Wholesale Interconnection Network Services Group ("CWINS") then opens a BellSouth "trouble ticket" and begins an internal investigation of the matter.

10. In most instances when service is completely down, BellSouth's investigation involves conducting a simple one-minute operations test to determine whether the loop is out of service. This test does not diagnose what may have caused the problem. Most importantly, this

operations test does not identify intermittent trouble on the loop or reflect whether the loop is "marginal." (A marginal loop does not meet the engineering guidelines for that specific type of loop.)

11. We often encounter intermittent troubles on a loop that is otherwise functioning fine. In instances where there are intermittent troubles or the circuit is marginal, BellSouth's operations test indicates there is no trouble with the loop. BellSouth informs us of this and closes out the trouble ticket, despite the fact that the loop has inherent problems that will continue to cause service outages. Only in the event that a loop is completely out of service is the operations test an adequate diagnostic tool.

12. As illustrated in the exhibits to my affidavit, repeated trouble tickets often are required. Because BellSouth does not fix the trouble the first time, the customer remains without telephone service until BellSouth finally resolves the problem sometime later.

13. When the trouble is intermittent or is otherwise not resolved by BellSouth the first time, the customer calls NuVox complaining of the same problem. In turn, NuVox has to submit a new trouble ticket to BellSouth to fix the same problem.

14. BellSouth should be required to perform more extensive testing in order to ensure that a problem is identified when it is originally reported. This would allow BellSouth to fix the defective loop following the first trouble ticket. This would prevent the need for multiple attempts to remedy the problem and eliminate multiple charges for maintenance dispatches to address the same defective loop.

15. I have seen the performance reports BellSouth produces. As I understand it, BellSouth's Maintenance and Repair report "Maintenance Average Duration SQM" measures the elapsed time from the time the BellSouth trouble ticket is opened until the time it is closed. As

explained in Mary Campbell's affidavit, BellSouth's performance data for NuVox is incomplete and therefore not a reliable measure of NuVox's experience. However, I have looked at the Georgia Monthly State Summary for May 2001. I looked at the submetric for xDSL loops/dispatch (B.3.3.5.1). This report shows that the average duration for all CLECs for May 2001 was 5.49 hours.

16. I do not believe that BellSouth's average maintenance duration is valid. As explained above, we regularly have to open numerous trouble tickets on the same customer trouble before the problem is resolved and the customer's service is reliably restored. The average duration should be based on the time from the first trouble ticket is opened until the last trouble ticket is closed. To measure the interval otherwise distorts the true picture of the customer experience. I believe most consumers would regard the maintenance period to be the entire elapsed time from the first report of the trouble until it is completely resolved.

17. A simple analogy illustrates the fallacy of BellSouth's measure. Most people have had the experience of taking an automobile to a mechanic to repair an engine problem only to learn when driving home from the mechanic that the problem was not resolved. A return trip to the mechanic is required often requiring that the automobile be left with the mechanic for the day so the problem can really be fixed. Under BellSouth's Average Maintenance Duration measure, each of these trips to the mechanic is treated as a separate trouble ticket. The first trip is counted as a trouble ticket opened. When the customer picks up his automobile and pays the repair bill, BellSouth would count this as a closed ticket. The elapsed time between the opening and the closing of this ticket would go into the Average Maintenance Duration calculation. When the customer returned the next day to report that the problem he originally complained of has not been repaired, BellSouth would count this instance as an entirely separate and unrelated

trouble ticket. I believe most customers would regard the "maintenance duration" to be the elapsed time from the first trip to the mechanic until the vehicle is fully and completely repaired – whether that takes 1 trip or 3 trips to the mechanic.

18. Beginning in October 2000, when BellSouth began designing HDSL services on T1 circuits, we have repeatedly informed BellSouth of these trouble-clearing issues. My office has a monthly meeting with its BellSouth account team, members of the ACAC and CWIN, and other BellSouth representatives to discuss ongoing concerns between our companies. In these monthly meetings, NuVox has expressed the concerns set out above. BellSouth representatives have made verbal commitments to improve the process and remedy BellSouth's inefficiency in addressing trouble ticket issues. To date, we are still experiencing these unreasonably long trouble-clearing times and the expenses associated with BellSouth's failure to remedy troubles in a timely manner.

19. BellSouth's failure to remedy trouble reports in a reasonable time adversely affects NuVox's customer relationship. When faced with delays caused by BellSouth's inefficient trouble ticket response, NuVox customers are understandably frustrated and angry with NuVox. We have lost customers as a result, and those customers typically opt to return to BellSouth.

20. NuVox is assessed hourly work charges for each maintenance dispatch made by a BellSouth technician, even if multiple visits are required to remedy a single problem. Further, where a trouble is ultimately resolved by BellSouth and is an acknowledged problem with BellSouth's facilities and/or network, BellSouth bills NuVox for all previous service calls even if BellSouth caused the trouble in question. These service calls end up costing NuVox hundreds of thousands of dollars. In short, multiple visits for the purpose of solving a single discrete

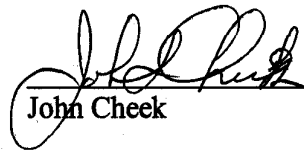
problem, and the attendant charges we must pay to BellSouth, are excessive and unreasonable.

21. NuVox's experience is like a customer being charged for the second trip to the repair shop for the mechanic to fix the problem he did not repair on the first trip.

22. As a 33-year veteran of BellSouth's network department, I am aware of the effort and attention necessary to solve problems associated with the telecommunications network.

BellSouth takes an unreasonable amount of time to clear troubles encountered by NuVox customers, and fails to resolve these troubles in a reasonable, cost-effective manner. This conduct by BellSouth is an obstacle to NuVox's substantial and continuing efforts to compete in the Georgia marketplace.

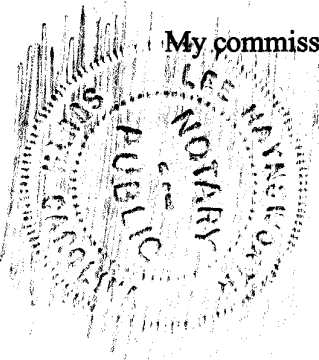
I hereby swear that the foregoing is true and correct to the best of my information and belief.


John Cheek

Subscribed and sworn to before me
this the 17th day of October, 2001.


Notary Public

My commission expires: My Commission Expires January 19, 2003



Chronic Tickets
BellSouth
May 2001

Paytime:

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|----------|----------|--|
| OV039532 | 03/09/01 | BellSouth found no trouble on the circuit |
| OV039980 | 03/24/01 | BellSouth replaced the HRU with a new revision |
| OV040414 | 04/04/01 | BellSouth changed the circuit from a 4wire to a 2 wire |

Resolution: BellSouth provisioned a new circuit because the existing circuit could not meet specifications

Copper Music:

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|----------|----------|---|
| OG084795 | 04/17/01 | Bellsouth found no trouble on the circuit |
| OG084796 | 04/17/01 | BellSouth found no trouble on the circuit |
| OG084920 | 04/19/01 | BellSouth repair a broken jumper between the DSXs panels |
| OG085138 | 04/20/01 | BellSouth replaced the HLU |
| OG040967 | 04/23/01 | BellSouth found no trouble on the circuit |
| OG05810 | 05/01/01 | BellSouth changed the HRU to a new revision and changed cable pairs |
| OG087179 | 05/18/01 | BellSouth changed cable pairs |
| OG087455 | 05/22/01 | BellSouth monitored this circuit on this ticket and saw errors. |
| OG087501 | 05/22/01 | BellSouth repaired split cable pairs |

Resolution: BellSouth replaced Smart Jack with new revision and changed outside cable pair from the HRU to customer premise on 05/01/01. Second Resolution by Bellsouth was to repair split aerial cable pairs.

DataScape:

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| OG081207 | 02/27/01 | BellSouth found no trouble on the circuit |
| OG082671 | 03/20/01 | BellSouth found no trouble on the circuit |
| OG083911 | 04/09/01 | BellSouth replaced the HRU |
| OG085393 | 04/25/02 | BellSouth checked the DAC for correct provisioning |
| OG085934 | 05/02/01 | BellSouth Check their MUXs for correct provisioning |
| OG086277 | 05/12/01 | BellSouth found no trouble on the circuit |
| OG086760 | 05/12/01 | BellSouth found no trouble on the circuit |
| OG087375 | 05/14/01 | BellSouth found no trouble on the circuit |

Resolution: BellSouth's latest Resolution was to repair monitor jack and change the LBO setting for the loop.

Guinness World Travel:

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| OG081936 | 03/09/01 | BellSouth found no trouble on the circuit |
| OG082560 | 03/19/01 | BellSouth found no trouble on the circuit |
| OG083471 | 03/29/01 | BellSouth found no trouble on the circuit |
| OG083640 | 04/03/01 | Bellsouth found no trouble on the circuit |
| OG083756 | 04/03/01 | Bellsouth found no trouble on the circuit |
| OG083911 | 04/09/01 | BellSouth provisioned a new loop because the existing loop could not |

Meet specification

Resolution: After escalation by Senior Vice President Paul Pitts, BellSouth provisioned a new circuit.
Previous requests by NuVox personnel were turned down.

Pine Castle Inc.:

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| ON046826 | 02/26/01 | BellSouth found no trouble on the circuit |
| ON047342 | 03/12/01 | BellSouth found no trouble on the circuit |
| ON047391 | 03/15/01 | BellSouth replaced the HDU |

Resolution: BellSouth replaced HDU

International Food Concept Inc.:

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| OG081044 | 02/24/01 | BellSouth found no trouble on the circuit |
| OG082529 | 03/18/01 | BellSouth found no trouble on the circuit |
| OG083343 | 03/28/01 | BellSouth found no trouble on the circuit |
| OG084699 | 04/16/01 | BellSouth provisioned new loop |

Resolution: BellSouth provisioned new circuit because the existing circuit could not meet specification

ABC Technology Staffing:

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|-----------|----------|---|
| OC0707840 | 03/22/01 | BellSouth replaced the HLU |
| OC070971 | 03/26/01 | BellSouth left a voice mail stating that they repaired the broken condition |
| OC071433 | 04/02/01 | BellSouth replaced damaged jumper wires in crossbox |

Resolution: BellSouth replaced damaged jumper wires in cross-box

Aqua Sun Resort:

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| OG081701 | 03/06/01 | BellSouth found no trouble on the circuit |
| OG081818 | 03/08/01 | BellSouth found no trouble on the circuit |
| OG081913 | 03/09/01 | BellSouth changed the smart jack |
| OG082286 | 03/14/01 | BellSouth found no trouble on the circuit |
| OG083209 | 03/27/01 | BellSouth checked the provisioning in their DACs and MUXs |
| OG083911 | 04/09/01 | BellSouth found settings to be incorrect in their DACs |

Resolution: BellSouth found setting to be incorrect in their DACs

Fourth Presbyterian Church:

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| OC072439 | 04/17/01 | BellSouth found no trouble on the circuit |
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Cronic Tickets
BellSouth
May 2001

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| OC073030 | 04/26/01 | BellSouth found no trouble on the circuit |
| OC073258 | 05/01/01 | BellSouth found no trouble on the circuit |
| OC073839 | 05/11/01 | BellSouth found no trouble on the circuit |
| OC073884 | 05/11/01 | BellSouth removed bridge tap for the circuit |

Resolution: BellSouth removed bridge tap for the circuit

John J. Kirlin:

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| OS061413 | 05/24/01 | BellSouth found no trouble on the circuit |
| OS061560 | 05/29/01 | BellSouth changed HRU, HLU, and F2 pairs |

Resolution: BellSouth changed HRU, HLU and the F2 pairs on 05/30/01.

**Chronic Tickets
BellSouth
June 2001**

General Diesel:

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| CI043854 | 06/15/01 | BellSouth replaced the HRU |
| CI044269 | 06/20/01 | BellSouth repaired a defective cable pair. |
| CI044379 | 06/21/01 | BellSouth repaired a defective cable pair. |
| CI044379 | 06/21/01 | BellSouth removed a bridge tap |

Resolution: BellSouth removed a bridge tap to a pedestal that had been taken out of service.

Steelworks of the Carolina's:

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| OC076269 | 06/19/01 | BellSouth replaced a defective HLU |
| OC076350 | 06/20/01 | BellSouth reported back NTF on the circuit |
| OC076350 | 06/21/01 | BellSouth replaced a defective doubler in the circuit. |
| OC076350 | 06/22/01 | BellSouth repaired a crossed cable pair in a cross box. |

Resolution: BellSouth repaired a crossed cable pair in a cross box.

Wilt Building Materials:

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| OV042295 | 06/11/01 | BellSouth repaired a defective shelf at the remote terminal |
| OV042475 | 06/15/01 | Bellsouth repaired a defective shelf at the remote terminal |
| OV042784 | 06/29/01 | BellSouth replaced a blown fuse |

Resolution: BellSouth replaced a blown fused.

USPA and IRA:

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| OC075471 | 06/06/01 | BellSouth replaced a broken cross connect an Replaced the T1 card in the smart jack |
| OC076974 | 06/28/01 | BellSouth replaced a bad cable pair from the crossbox to the customer premise. |

Resolution: BellSouth replaced a bad cable pair from the crossbox to the customer premise.

Happy Hocker

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| OG087589 | | BellSouth found no trouble on the circuit |
| OG088613 | | BellSouth replaced a bad DS3 card |

Resolution: BellSouth replaced a bad DS3 card

H.C. Warner:

Chronic Tickets
BellSouth
June 2001

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| GI054916 | 06/19/01 | BellSouth found no trouble on the circuit |
| GI055094 | 06/21/01 | BellSouth replaced the HLU |
| GI055506 | 06/28/01 | BellSouth found no trouble on the circuit |
| GI055880 | 06/28/01 | Chronic Group at BellSouth is looking into this trouble |

Resolution: None

Chronics/Bell Tickets

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| Nationwide Envelope | 071301-45542 | gi056987 gi057225 gi057425 gi057500 | NTF, closed test assist, Bell ran clean ran errors, replaced HRU couldn't loop HRU, changed to auto-framing, defective doubler found 2 nd level escalation, changed out the HRU for 2 nd time. Old model was Adtran now it is a PairGain. We are still monitoring |
| Saedacco | 062501-40593 | oc076795 ci046596 ci046762 ci046814 | at this time we thought the issue might be an internal wiring issue at the premise And we fought with Bell to move the SJ. In the end, they refused. unknown, the circuit was converted to the UNE center changed framing, issue is still currently being worked ticket is still open, no resolution yet. Currently working with Bell to resolve |
| Computer Warehouse | 070501-43385 070501-43566 | no bell TT oc077404 oc077575 oc077838 oc077866 | came clear when testing, referred to 070501-43566 dispatched out to get PM data, no pm data was given, Bell closed ticket NTF TOK, good PM data replaced SJ, Bell thought the trouble was in the CO, ran patterns clean, closed test assist, 2 nd level escalation, monitor, Bell closed, we then re-terminated the cable ends, stressed and it ran clean. Our ticket was closed on 07/18/01 |
| Discount Tire & Wheel | 071001-44656 | ci045963 ci046247 ci046386 | NTF 1 st level escalation, then they replaced the SJ replaced the HLU, replaced defective doubler, out ticket was closed on 07/16/01 |
| Interact Realty | 062601-41009 | os062977 os062978 | NTF, this customer has 2 ckts that are taking errors at the same time. When we we opened a ticket for one, we would open a ticket for the other so TT# will correlate NTF |

Cronics/Bell Tickets
July 2001

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| Interact Realty cont. | 070501-43515 | os063250 | NTF |
| | | os063351 | Bell saw a trouble on the loop and opened os063364 for dispatch to repair |
| | | os063364 | Bell stated NTF and closed their ticket |
| | 071001-44600 | os063538 | NTF |
| | | os063539 | NTF |
| | | os063784 | NTF, given to chronics group |
| | | os063783 | (customer's voice circuit) Bell finally replaced the cable pairs and it fixed both circuits at the same time. Our ticket closed on 7/18/01 |

August Chronic and Difficult Bell tickets

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| <u>Accent Mortgage</u> | 080201-51354 | on051598 | replaced SJ |
| | | on051682 | Bell states NTF, but they actually reset the SJ card. |
| | | on051747 | replaced HRU, HLU, and heat coils. |
| | | on051935 | replaced HLU card |
| | | on052005 | replaced heat coils |
| | | on052125 | I pressed Bellsouth to check the span. They finally re-wire the circuit from the junction box to the HRU. We thought the circuit was working properly, but I had them place a PM ticket to confirm this. |
| | | on052161 | This is the monitor ticket. The circuit is showing a few errors but not many. Bellsouth's chronics group is using this ticket to pro-actively work the issue. |
| <u>Beck Agency</u> | 072701-49501 | og092383 | problem with underground wiring. |
| | 081601-55542 | gi059707 | Circuit converted to EEL. Bellsouth replaced HLU card. |
| | 082701-58395 | gi060310 | Work done on the ticket is unknown. It was not noted at the time this report was done. |
| <u>Demann Marine</u> | 072001-47469 | ci046618 | Bellsouth found an open jumper in the CO. Our ticket notes indicate that another Bell has possibly been opened. The HLU has been replaced as well. |
| | 080901-53406 | ci048327 | Bellsouth closed their ticket NTF. On our ticket we thought the issue might also be caused by temperature issues with the Vina so it was moved to a heat controlled room. |
| | 081501-55047 | | No Bell ticket opened. It is believed that the service went down due to Bellsouth intrusively testing the circuit. |

August 2001

Demann Marine cont. 081701-55904

No Bell ticket listed but notes stated that the problem was a Bellsouth Mux card.

East of Eden

082001-56219

ci048701

no status given in the ticket

082401-57880

ci049176

Bell closed ticket NTF

082601-58289

ci049262

Bell closed ticket NTF

Issue is still being worked. We are re-testing the circuit to make sure the issue isn't ours.

Industrial Electronics 082001-56432

ti029074

Bell closed their ticket NTF, but we believe they did something to repair the circuit. The reason I listed this customer in the report is because of the difficulty with Bellsouth and the fact that we had to work so long on the ticket to get this repaired. Within NuVox, this became an Escalated ticket.

Jtown Insurance

081501-55162

The Bellsouth ticket number was not listed, but the notes state the SJ was replaced.

082001-56231

ki019541

work done on this ticket is unknown request sent to replace the SJ

ki019553

Kendall Grand Travel 080701-52911

os064688

Bell replaced HRU and HLU cards

080901-53420

os064738

Bell states NTF

os064753

Bell states NTF

os065318

This has been given to the Bellsouth Chronics Group. As a long term solution, John Cheek and Lester Brackett has approached Bellsouth about installing a new loop.

Knowledge Sentry

072401-48413

oc078311

Bellsouth found this open between the HLU and the frame at the CO. ticket opened on wrong ckt.

081401-54835

oc079092

Bell found bad jumper at CO

081501-55387

oc079124

Bellsouth improperly disconnected the customer. They were restored.

T and D Remarketing 081501-55104

og093362

Customer has 2 ckts. This ticket is for the 1st one.

og093364

2nd circuit

FYI: this circuit is an HDsl-2wire circuit. The SJ cards were on recall. Bellsouth replaced them. This did not correct the problem. Our ticket is closed and the issue is resolve but this customer reached our Executive level of escalation.

August 2001

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| <u>Techware Computers</u> | 080601-52305 | ti028282 | The terminating box at the premise was damaged by the customer. Bellsouth repaired it. |
| | 081301-54214 | ti028596 | Bell found a broken jumper in the CO. |

Windward Transportation 081301-54217 og093373 We reported the trouble to Bellsouth about this customer losing dialtone randomly on different DS0s at different times. This is a similar situation that took place with T and D Remarketing. The is issue is resolve but there are no notes in our tickets as to what Bellsouth repaired. This was a very intermittent and difficult issue to troubleshoot. Listed Below are other tickets that the customer opened for this same trouble, but the issue would clear before we could report it to Telco.
070201-42705, 080801-53053, 081001-53912